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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/722,623

11/26/2003

Girish T. Dalal

201TR032

7109

37535

7590

12/23/2008

LEGAL DEPARTMENT

LUBRIZOL ADVANCED MATERIALS, INC

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CLEVELAND, OH 44141-3247

EXAMINER

PENG, KUO LIANG

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

12/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/722,623	<b>Applicant(s)</b> DALAL ET AL.	
	<b>Examiner</b> Kuo-Liang Peng	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10/17/08 Amendment.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 6-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The Applicants' amendment filed October 17, 2008 is acknowledged.  
Claims 1 and 3 are amended. Claims 6-18 are withdrawn. Now, Claims 1-5 are pending for consideration.
2. The text of those sections of Title 35, U.S. code not included in this action can be found in prior Office Action(s).

#### ***Claim Rejections - 35 USC § 103***

3. Rejection of Claims 1-5 under 35 USC 103(a) as being unpatentable over Deterrmann (US 5 912 277) as evidenced by Gray (US 4 123 376) and optionally Eshuis (US 5 635 588) is maintained because the rejection is adequately set forth in paragraph 2 of Paper No. 20080426. Applicant's arguments have been fully considered but they are not persuasive. The focus argument related to the core patentability is discussed below.

For Applicants' argument (page 6, last paragraph to page 7, 2<sup>nd</sup> paragraph), in view of Applicants' assertion, it appears that there is no criticality or unexpected

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result associated with the mean particle diameter of 1.5 micron. Applicants are reminded that an **expected result** cannot obviate a rejection under 35 USC 103(a).

For Applicants' argument (page 7, 3<sup>rd</sup> and 4<sup>th</sup> paragraph), Determann does disclose an impact modifier of a silicone rubber/acrylic copolymers, etc. (col. 7, lines 35-49 and col. 8, line 32 to col. 10, line 5)

For Applicants' argument (page 7, 5<sup>th</sup> paragraph and last paragraph), Gray was cited merely to show the characteristics of zeolite 4A.

For Applicants' argument (page 7, 2<sup>nd</sup> paragraph from bottom), Eshuis was cited merely to show the composition of a typical zeolite at issue.

4. Rejection of Claims 1-5 under 35 U.S.C. 103(a) as being unpatentable over Lepilleur (US 6 306 945) in view of Detterman is maintained because the rejection is adequately set forth in paragraph 3 of Paper No. 20080426.

For Applicants' argument (page 8, 2<sup>nd</sup> paragraph), as discussed in the previous Office action, Lepilleur discloses a composition comprising a chlorinated polyvinyl chloride (CPVC) and an aluminosilicate zeolite. (col. 3, line 39 to col. 7, line 5) The chlorine content and the intrinsic viscosity of the CPVC are further elaborated in col. 4, line 36 to col. 5, line 14. The amount, basic formula, mean particle size, water content of the aluminosilicate are described in detail in col. 5,

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line 5 to col. 7, line 5 and Examples. Lepilleur teaches the use of **acrylic** impact modifiers, methacrylate-butadiene-styrene (**MBS**), etc. (col. 9, line 56 to col. 10, line 29) The amount of the impact modifiers can be found in Examples. Also, Lepilleur discloses that **other impact modifiers** in addition to the aforementioned ones can be employed. (col. 10, lines 30-42) Lepilleur is silent on the claimed impact modifier. However, Detterman teaches the equivalence/interchangeability of **acrylic, MBS, silicone rubber/acrylic copolymer** as effective impact modifiers in a CPVC composition that is **substantially similar** to Lepilleur's disclosure. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the silicone rubber/acrylic copolymer in lieu of or in addition to Lepilleur's acrylic and/or MBS impact modifiers with expected success. Especially, Detterman is in the same field as that of Lepilleur's endeavor.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Seidleck, can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained

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from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

klp

December 19, 2008

/Kuo-Liang Peng/  
Primary Examiner, Art Unit 1796